REO D. MOORE III
NAME
T-13519
PRISON NUMBER
C.R.C. P.O. BOX 3535 DORM 301/38UP
CURRENT ADDRESS OR PLACE OF CONFINEMENT
NORCO, CA. 92860-0991
CITY, STATE, ZIP CODE

FILED
JAN 25 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

2254 ✓ 1983
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ___ No ___
COPIES SENT TO
Court ___ ProSe ___

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

REO D. MOORE III,
(FULL NAME OF PETITIONER)

PETITIONER

v.

WARDEN MARTEL,
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS])

RESPONDENT

and

______________________,
The Attorney General of the State of California, Additional Respondent.

Civil No. '08 CV 0160 L AJB
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: BOARD of PRISON TERMS (CIM)
2. Date of judgment of conviction: 6-12-07
3. Trial court case number of the judgment of conviction being challenged: N/A
4. Length of sentence: 12 mos. (INEligible)

cR

5. Sentence start date and projected release date: 5-8-07 start Date Projected Release Date 5-7-08.

6. Offense(s) for which you were convicted or pleaded guilty (all counts): Assault with Deadly weapon + DUI

7. What was your plea? (CHECK ONE)
   (a) Not guilty ☑
   (b) Guilty ☐
   (c) Nolo contendere ☐

8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
   ~~(a) Jury ☐~~
   ~~(b) Judge only ☐~~
   BPT Commissioner ☑

9. Did you testify at the trial?
   ☑ Yes ☐ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the California Court of Appeal?
   ☐ Yes ☒ No

11. If you appealed in the California Court of Appeal, answer the following:
   (a) Result: N/A
   (b) Date of result, case number and citation, if known:
   (c) Grounds raised on direct appeal:

12. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following:
   (a) Result: N/A
   (b) Date of result, case number and citation, if known:
   (c) Grounds raised:

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:

(a) Result: N/A

(b) Date of result, case number and citation, if known: ______

(c) Grounds raised: ______

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?
☐ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:

(a) **California Superior Court** Case Number: WHCSS0196

(b) Nature of proceeding: Writ of Habeas Corpus

(c) Grounds raised: 1. Due Process Rights Violated "Lack of Timeliness"
2. Improper Proceedings

(d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No

(e) Result: 7-31-07 Denied

(f) Date of result: 7-31-07

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?
☒ Yes ☐ No

17. If your answer to #16 was "Yes," give the following information:

(a) **California Court of Appeal** Case Number: WHCSS0196

(b) Nature of proceeding: Writ of Habeas Corpus Hearing

(c) Grounds raised: 1. Due Process Rights Violated "Lack of Timeliness"

2. Improper Proceedings

(d) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

(e) Result: Denied

(f) Date of result: 9-13-07

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?

☒ Yes ☐ No

19. If your answer to #18 was "Yes," give the following information:

(a) **California Supreme Court** Case Number: WHCSS0196

(b) Nature of proceeding: Writ of Habeas Corpus Hearing

(c) Grounds raised: 1. Due Process Rights Violated "Lack of Timeliness"

2. Improper Proceedings

(d) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

(e) Result: Denied

(f) Date of result: 11-14-07

20. If you did ***not*** file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the **California Supreme Court**, containing the grounds raised in this federal Petition, explain briefly why you did not:

N/A

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

☒ Yes ☐ No (IF "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed? ____

(i) What was the prior case number? ____

(ii) Was the prior action (CHECK ONE):

☐ Denied on the merits?

☐ Dismissed for procedural reasons?

(iii) Date of decision: ____

(b) Were any of the issues in this current petition also raised in the prior federal petition?

☐ Yes ☐ No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present ***all*** other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUNDS FOR RELIEF

22. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE**: Due Process Rights Violated "Lack of Timeliness" Probable Cause Not held within 10 business days after being served with charges.

Supporting FACTS (state *briefly* without citing cases or law) Petitioner / Parolee Was served with BPT-1100 form (Notice of Parole Revocation Rights and Acknowledgement) on [5-11-07]

*See attached Legal Document [Exhibit A]

The BPT-1100 form "clearly states" effective July 1, 2005 that every parolee have the right to a "probable cause hearing" with your attorney and a Deputy Commissioner of the BPT within 10 business days of today if you are in custody.

However petitioner did not go before a Deputy Commissioner of BPT and attorney until [6-4-07]. Approximately 14 business days from the signing of the BPT-1100 form.

*See Attached [Exhibit B] Summary of Revocation Hearing and decision pg. 5 of BPH-1103 Rev form.

Petitoner "objected" to hearing be held due to Lack of Timeliness. However petitioners time constraints were already violated, therefore violating him of his Due Process Rights.

Did you raise GROUND ONE in the California Supreme Court?
☒ Yes ☐ No.

(b) GROUND TWO: Improper Proceedings; Petitioner felt prejudiced and should have been granted relief from restraint of Liberty. Commissioner erroneously held hearing.

Supporting FACTS (state *briefly* without citing cases or law): "See Attached"

Summary of Revocation hearing [Exihibit B pg. 5]

Due to the supporting facts presented to the commissioner by counsel and the objection of hearing. The commissioner erroneously made a discretionary by proceeding with the hearing.

Did you raise GROUND TWO in the California Supreme Court?
☒ Yes ☐ No.

(c) **GROUND THREE:** ______________________________

____

____

Supporting FACTS (state *briefly* without citing cases or law): ______________________________

____

Did you raise GROUND THREE in the California Supreme Court?

☐ Yes ☒ No.

(d) **GROUND FOUR**: ______

Supporting **FACTS** (state *briefly* without citing cases or law): ______

Did you raise GROUND FOUR in the California Supreme Court?

☐ Yes ☑ No.

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?
☐ Yes ☒ No

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court: ______

(b) Case Number: ______

(c) Date action filed: ______

(d) Nature of proceeding: ______

______

(e) Grounds raised: ______

______

______

______

______

(f) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing: ______

______

(b) At arraignment and plea: ______

______

(c) At trial: ______

______

(d) At sentencing: ______

______

(e) On appeal: ______

(f) In any post-conviction proceeding: ______

______

(g) On appeal from any adverse ruling in a post-conviction proceeding: ______

______

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
☒ Yes ☐ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
☒ Yes ☐ No

(a) If so, give name and location of court that imposed sentence to be served in the future: FONTANA SUPERIOR COURT

(b) Give date and length of the future sentence: 9-28-07 16 mos Eligible for Half

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
☐ Yes ☒ No

28. Date you are mailing (or handing to a correctional officer) this Petition to this court: 1-14-08

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

____
SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

1-14-08
(DATE)

Reo D. Moore III
SIGNATURE OF PETITIONER

EXHIBIT-"A"

BOARD OF PRISON TERMS | STATE OF CALIFORNIA

NOTICE OF PAROLE REVOCATION RIGHTS AND ACKNOWLEDGEMENT

BPT 1100

(Follows the ADA advisement and completion of the BPT 1073.)

If the charges are referred to the Board of Prison Terms this is what will happen:

- You have a right to written notice of claimed violations of parole (CDC Form 1502b).
- You have a right to all evidence that will be used against you.
- You have a right to an attorney who will be assigned to represent you at all times during the revocation process.
- You have the right to ask your attorney to request an expedited (earlier) probable cause hearing if you have evidence that is a complete defense to the charges that are the basis of the parole hold.
- Effective July 1, 2005, you have the right to a probable cause hearing with your attorney and a Deputy Commissioner of the Board of Prison Terms within 10 business days of today if you are in custody. You have the right to present letters, documents, and speak on your own behalf at this hearing. The reason for the probable cause hearing is for the Deputy Commissioner to determine if there is enough evidence to keep you in custody until your revocation hearing and to try to settle your case on that date. At the probable cause hearing you will also be given the opportunity to discuss and accept or reject the offer given to you by the Deputy Commissioner.
- If you are in custody, you have the right to a revocation hearing within 35 calendar days from the date the parole hold was placed and to receive written notice of the date and time of the hearing.
- You have a right to be heard in person and to present witnesses and documentary evidence in your defense at a revocation hearing.
- You have a right to confront and cross examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation).
- You have a right to a neutral and detached hearing officer.
- You have a right to have your revocation hearing within 50 miles of the alleged violation.
- You have the right to subpoena witnesses in your defense to the same extent that the state can subpoena witnesses.
- You have a right to a written statement by the hearing officer as to the evidence relied on and the reasons for the decision and to receive a tape recording of the revocation hearing.

Acknowledgement

1. I have been informed of my rights listed above.
2. I know that I will meet with an attorney. My attorney will tell me all my rights and the BPT return-to-custody assessment offer.
3. I have a copy of the papers and reports checked below.

- [x] BPT Form 1073, Notification of Americans with Disabilities Act completed today
- [x] CDC Form 1502(b), Charge Report
- [x] BPT Form 1100, Notice of Rights and Acknowledgement
- [x] Blank Form BPT 1100(b), Request for Witnesses
- [ ] Other:____________________

I have read (or had read to me) the information above. I have been given copies of the papers, forms, and reports listed above

Kelo Moore III	T13519	5/11/07
Signature of Parolee	CDC Number	Date
[signature]	E. Benson	5/11/07
Signature of Staff Completing the Actual Notice	Print First Initial, Last Name	Date

NAME Moore, R. CDC # T-13519 INST/REGION Ont. #2

EXHIBIT "B"

BOARD OF PAROLE HEARINGS
STATE OF CALIFORNIA

Records Office Use Only

Projected Revocation Release Date
Revocation Release Date
Controlling Discharge Date
Discharge Review Date

PRIORITY CASE

SUMMARY OF REVOCATION HEARING AND DECISION

(BPH Rules, Chapter 6, Article 3)

PRELIMINARY INFORMATION

Type of Hearing
REVOCATION

Location of Hearing
CALIFORNIA INSTITUTION FOR MEN - EAST FACILITY
Parolee in custody at Time of Hearing: YES

Basis for Charges
Parole Violation Report, Dated: 18-MAY-2007

Police Report Agency Dated:

Optional Waiver
NO Date Signed by Parolee:
Date of BPH Action:

Assessment:

Legal Data

The crime for which the parolee was committed to prison occurred on or before 12-31-1978: NO
The crime for which the parolee was committed to prison occurred on or after 1-1-1979: YES
Date of arrest on current parole violation charge(s): 08-MAY-2007
Date hold was placed on current parole violation charge(s): 08-MAY-2007

ADA Special Needs:

Present at Hearing Hearing Officer: W KEENAN

1. [X] Yes [ ] No Parolee (If Parolee absent, Why?)
2. [X] Yes [ ] No Attorney Name: HAYTON, T [ ] Waived
3. [X] Yes [ ] No Agent of Record or Substitute: THOMAS, KEITH Reason not present:
4. [ ] Yes [ ] No Hearing Agent: Reason not present:
5. [ ] Yes [X] No Observers Name and Organization:
6. [ ] Yes [X] No Interpreter Assigned Language Name

Witnesses (continue on the last page if more than 8 witnesses)

Present		Name	Notified		Wit. Desig.**		Testified	Excused	If absent, state specific reason.
Yes	No		Meth.*	Date	Stat.	Req.			
X		OFF. RYAN, 850	SP	06-JUN-07	A	S	X		OFFICER RYN
X		OFF. ANDERSON, 681	SP	06-JUN-07	A	S	X		

*NOTIFICATION METHOD
M = Memo PC = Personal Contact
L = Letter SP = Subpoena
PH = Phone TT = Teletype

**USE ABBREVIATION FOR WITNESS DESIGNATION
Status: A = Adverse, F = Friendly, V = Victim
Requested by: S = State, P = Parolee

NAME	CDC NUMBER	INST/REGION / AGENT	HEARING DATE
MOORE, REO	T13519	ONTARIO 2 / 4 THOMAS, KEITH	12-JUN-2007

EXHIBIT-"B"

BOARD OF PAROLE HEARINGS
STATE OF CALIFORNIA

SUMMARY OF REVOCATION HEARING AND DECISION

Preliminary Information (cont.)

H. HEARING: Occurred

REASON:

Specify Witnesses/Documents needed for next hearing:

SUMMARY OF FINDINGS

ADMISSIONS/DENIALS AND FINDINGS

Charges			Plea			Findings		
Charge Number	Code Number	Charge Specified	Admit	Deny	No Plea	Good Cause	Dismiss	Postponed
1.	410	Assault with deadly weapon on a peace officer		X		X		
2.	850	Driving under the influence of alcohol/drugs	X			X		

NAME	CDC NUMBER	INST/REGION / AGENT	HEARING DATE
MOORE, REO	T13519	ONTARIO 2 / 4 THOMAS, KEITH	12-JUN-2007

BOARD OF PAROLE HEARINGS STATE OF CALIFORNIA

SUMMARY OF REVOCATION HEARING AND DECISION

REASON FOR DECISION

Basis for Conclusion:

GCF, CH1: OFFICER RYN TESTIFIED THAT HE ATTEMPTED A TRAFFIC STOP ON PAROLEE, WHO FAILED TO YEILD, THEN ENTERED A PARKING LOT, CONTINUED HIS REFUSAL TO YEILD, SWERVED AT A CAR IN THE PARKING LOT, AND EXITED THE PARKING LOT IN SUCH A MANNER AS TO NEARLY CAUSE A COLLISION WITH TWO OTHER CARS. POLICE OFFICERS THEN MANAGED TO BLOCK PAROLEE AT AN INTERSECTION. ADDITIONAL UNITS BOXED HIM IN. OFFICER RYN EXITED HIS VEHICLE AND APPOACHED PAROLEE. PAROLEE BACKUP HIS CAR QUICKLY IN THE DIRECTION OF OFFICER RYN WHO HAD TO JUMP OUT OF THE WAY TO AVOID BEING HIT. PAROLEE STRUCK ANOTHER OFFICER'S CAR IN AN ATTEMPT TO ESCAPE. OFFICER ANDERSON TESTIFIED THAT OFFICER DELAIR WAS IN THAT CAR AT THE TIME OF THE IMPACT. BOTH OFFICER RYN AND DELAIR WERE BEHIND PAROLEE WHEN HE DECIDED TO BACK UP. PRIOR TO STRIKING THE CAR WITH OFFICER DELAIR AND ALMOST HITTING OFFICER RYN, OFFICER ANDERSON SAW PAROLEE LOOK IN THEIR DIRECTION. BECAUSE PAROLEE WAS BOXED IN, OFFICER ANDERSON BELIEVES THAT PAROLEE WOULD HAVE TO CLEAR A PATH BY KNOCKING THE OFFICER'S CARS OUT OF THE WAY AND THAT IS WHAT HE BELIEVES PAROLEE WAS TRYING TO DO. PAROLEE WAS THEN PHYSICALLY RESISTIVE AND HAD TO BE TASED. FINDING: PAROLEE WAS ATTEMPTING ESCAPE. HE INTENTIONALLY BACKED INTO OFFICER DELAIR'S CAR AND AT OFFICER RYN IN ORDER TO EXCAPE. HE KNEW HE WAS BOXED IN BY OFFICERS AND LOOKED IN THEIR DIRECTION BEFORE ACTING.

GCF, CH2: PAROLEE ENTERED AN "ADMIT" IN HIS PLEA AND TESTIFIED HE WAS UNDER THE INFLUENCE. OFFICER RYN TESTIFIED PAROLEE HAD SIGNS AND SYMPTOMS OF BEING UNDER THE INFLUENCE OF CS. HE ADMITTED TO OFFFICER RYN HE RECENTLY SMOKED COCAINE. HE WAS DRIVING JUST PRIOR TO OFFICER RYN'S OBSERVATIONS OF PAROLEE SIGNS AND SYMPTOMS OF DRUG USE. OFFICER RYN HAS CONSIDERABLE AND SUFFICIENT EXPERIENCE TO FORM AN OPINION RE PAROLEE BEING UNDER THE INFLUENCE.

Basis for Disposition:

PAROLEE IS A 1-TERMER. C/O -- PC212.5(C)/ PC459 2D. NO PRIOR CONVICTIONS NOTED. THIS IS PAROLEE'S 1ST RTC SINCE HIS INITIAL PAROLE DATE OF 11-12-05. HE HAS HAD ONE PRIOR COP. HE WAS WORKING AND HAD A STABLE RESIDENCE. REMEDIAL SANCTIONS NOT ORDERED BASED ON PUBLIC SAFETY. SERIOUS NATURE OF THE VIOLATIONS MANDATES A MAXIMUM RTC.

ADA: NO ACCOMMODATIONS NEEDED OR REQUESTED.

NAME	CDC NUMBER	INST/REGION / AGENT	HEARING DATE
MOORE, REO	T13519	ONTARIO 2 / 4 THOMAS, KEITH	12-JUN-2007

BOARD OF PAROLE HEARINGS STATE OF CALIFORNIA

SUMMARY OF REVOCATION HEARING AND DECISION

SUMMARY OF DISPOSITION

Parole Referral: REFER

Custody Status: In Custody as of 08-MAY-07

☐ Continue on Parole ☐ Schedule for Revocation

☐ Dismiss ☐ Other Non-Rev Sanction

☒ Parole Revoked-Return to Custody: 12 months

Serve ☐ Consecutively ☐ Concurrently

☐ Parole Revoked-Return to Custody: months for Psych Rx

☐ Time Served: to

Hold Order: ☐ Place ☐ Remove

3057 Credits

☐ Eligible

☒ Ineligible 3057d-1 Reason for Ineligibility:

☒ Commitment Offense: PC212.5(C)

☐ Revocation Offense:

☐ Parole Violation:

☐ Sentenced under PC 1168:

☐ Unsuitable for credits because of PC 3057(d)(2)(e)

☐ Prior Criminal History

☐ Circumstances & Gravity of Parole Violation

Specify Reason

Parolee Decision

☐ Accept ☐ Reject ☐ Optionally Waive

Optional Waivers

☐ Previous BPH Action of ____________ is:

☐ Rescinded ☐ Reaffirmed

Special Conditions of Parole

☐ Noted ☐ Reaffirmed ☐ Amended

Other

Special Condition Reason

Instructions to CDCR or DAPO Staff

Miscellaneous Actions

BPH HEARING PANEL

NAME:

NAME: *William J. Keenan*

DECISION REVIEW BY:

REVOCATION HEARING TIME (MINUTES)

1. Prehearing Prep. Time:	10
2. Actual Hearing Time:	55
3. Report Completion Time:	25
4. Other:	5
Total:	95

Hearing Accommodations (ADA) Provided: ☐ Yes ☐ No

Accom:

NAME	CDC NUMBER	INST/REGION / AGENT	HEARING DATE
MOORE, REO	T13519	ONTARIO 2 / 4 THOMAS, KEITH	12-JUN-2007

BOARD OF PAROLE HEARINGS

STATE OF CALIFORNIA

SUMMARY OF REVOCATION HEARING AND DECISION

V. OBJECTIONS

☐ None ☒ Yes

Objections / Basis for Ruling	Ruling
LACK OF TIMELINESS FOR PCH.	DENY

THE HOLD DATE WAS 5-8-07. THE SERVICE DATE WAS 5-11-07 AND THE PCH WAS HELD 6-4-07. PER CASE STATUS REPORT, THE FILE WAS RECEIVED LATE FROM PAROLE DEPT. ATTORNEY DOES NOT RECALL IF THE OBJECTED RE TIMELINESS AT THE PCH, AND THE PCH 1103 DOES NOT REFLECT AN OBJECTION. THIS OBJECTION IS NOT TIMELY AND IS THEREFORE CONSIDERED WAIVED. FURTHERMORE, AND AS A SEPARATE GROUND FOR DENIAL, ATTORNEY DOES NOT ALLEGE ANY PREJUDICE RESULTING FROM THE DELAY AND NO PREJUDICE IS APPARENT.

NAME	CDC NUMBER	INST/REGION / AGENT	HEARING DATE
MOORE, REO	T13519	ONTARIO 2 / 4 THOMAS, KEITH	12-JUN-2007

PROOF OF SERVICE BY MAIL
(C.C.P. SEC. 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I, Douglas W. Airey, DEPOSE AND STATE UNDER THE PENALTY OF PERJURY THAT I AM OVER 18 YEARS OF AGE, THAT I AM NOT A PARTY TO THE ATTACHED PETITION FOR WRIT of HABEAS CORPUS BY A PERSON IN STATE CUSTODY IN PROPIA PERSONA AND THAT I DID ON THE BELOW CASE, DEPOSIT IN THE UNITED STATES MAIL AT NORCO, CALIF. THE ORIGINAL AND 2 COPIES OF THE ABOVE DESCRIBED DOCUMENT WITH POSTAGE FULLY PRE-PAID THEREON FOR MAIL TO:

DATE EXECUTED, 1-14-08, BY Douglas W. Airey
(DECLARANT)

x Reo D. Moore III
(PRISONER)

PROOF OF SERVICE BY MAIL

RETURN NOTICE OF RECEIVING TO:

Reo D. Moore III T-13519
C.R.C. Dorm 301/38up
P.O. Box 3535
Norco, CA. 92860-0991

JS44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

2254 / DEFENDANTS 1983
FILING FEE PAID Yes ___ No ✓
IFP MOTION FILED Yes ___ No ___
COPIES SENT TO Court ✓ Prose

FILED
JAN 25 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

I (a) PLAINTIFFS

Reo D. Moore III

DEFENDANTS

Martel

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Riverside
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Reo D. Moore III
PO Box 3535
Norco, CA 92860
T-13519

ATTORNEYS (IF KNOWN)

'08 CV 0160 L AJB

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Eiectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury-Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☒ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 DEMAND $ Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 1/25/2008 ~~SIGNATURE OF ATTORNEY OF RECORD~~ R. Moore

CR